

THE OFFICE OF HEARINGS AND APPEALS

WORKFORCE PLAN AND OUTCOMES

(Fourth Quarter, Fiscal Year 2006)



Office of Hearings and Appeals Human Capital Plan and Outcomes

Mission: The Office of Hearings and Appeals (OHA) mission is to conduct fair and efficient hearings and to issue decisions of the Department with respect to any adjudicative proceedings that the Secretary may delegate except those within the jurisdiction of the Federal Energy Regulatory Commission (FERC) and the Board of Contract Appeals. OHA's jurisdiction encompasses investigations, hearings and appeals of complaints filed under the DOE Contractor Employee Protection Program, and Personnel Security *Hearing Officer* functions. The Office analyzes and decides appeals requesting review of any determination reached by *any other official* within the Department under the jurisdiction of the Secretary, including initial determinations under the Freedom of Information Act, the Privacy Act, the payments-equal-to taxes (PETT) provisions of Nuclear Waste Policy Act of 1982, as amended, the special assessment provisions for the Uranium Enrichment Decontamination and Decommissioning fund under the Energy Policy Act of 1992, and the DOE's Competitive Sourcing Initiative under OMB Circular A-76.

The Organization's ***business priorities*** is predicated on its main jurisdiction for adjudicatory matters. Currently its primary jurisdiction are DOE personnel security clearance adjudications that ensure only trustworthy personnel are allowed access to classified information and special nuclear materials; and to conduct investigations and hearings concerning whistleblower complaints filed by DOE contractor employees and for issuing final agency decisions resolving them. However, as mentioned, The OHA also analyzes and decides appeals requesting review of any determination reached by any other official within the Department under the jurisdiction of the Secretary.

Human capital management strategy: OHA's small size enables strategic planning to be highly flexible in response to DOE requirements. OHA will continue to employ participative management concepts and utilize informal and linear communication concepts to set general strategic direction and develop management teams to define and execute its strategic plan. Moreover, the OHA will continue to use team-concept initiatives which invariably streamlined the organization. And, it has been noted that team members not only learn the intricacies of the organization because of its crosscutting efforts, but also develop leadership skills based on empiricism. In addition, team initiatives support the OHA's near-term succession planning efforts of in-house training. Team leaders will continue to be empowered to have full management accountability for final decisions and orders. Participative decision making on case adjudication will serve as a direct correlation to employee performance, therefore, maintaining a highly polished legal product historically noted in DOE. To implement participation in decision making, the OHA will continue to use the concept of "peer review" on final recommendations from the serving Hearing Officer. The most important task is keeping current with new jurisdictions or legal developments so as to maintain necessary levels and mixes of legal expertise. Therefore, the OHA will continue to adjust its budget plan to meet training needs to include executive and leadership training.

Linkage to DOE Strategy/Mission: The OHA performs critical functions which directly support the mission of the Department. These functions include conducting hearings in Personnel Security cases, that only trustworthy employees are allowed access to classified information or controlled nuclear materials. In its supervision of Whistleblower hearings, OHA insures that the Department has a workplace where employee concerns about health and safety, fraud, waste, abuse or mismanagement may be addressed. To that end, we see the need to maintain a cadre of senior management officials with working knowledge of Hearing Officers' case work. And, will continue to ask for a senior manager in filling the vacancy of a SES attorney position. In addition, the OHA will seek to maintain SES levels in its management core.

Anticipated skill gaps: The OHA's major critical occupation is licensed attorney examiners at the senior level who act independently in a quasi-judicial capacity with autonomy to render decisions. However, OHA will continue to assess the need for additional law clerks and/or entry level attorneys to support its Hearing Officers, and continue to link our budget plan with human capital needs in order to fully adjudicate all matters before the Office. The OHA has been able to use hiring flexibilities that increased diversity, enhanced the Department's student hiring program and helped maintain contacts with local colleges and universities which have encouraged future generations to consider government as a career choice. For example, last fiscal year the critical gap for law clerks was filled by local law students. The critical vacancy was filled by one female law graduate from a local university. Because the Office is charged with analyzing, and deciding appeals requesting review of any determination reached by any other official within the Department under the jurisdiction of the Secretary, the Office will face short-term skill gaps that will have to be supported by innovative hiring practices such as short-term appointments, law student intermittent employment and the like which will support current fiscal year funding. For example, the OHA has through its regulatory enforcement efforts and various federal court decisions has collected nearly \$5 billion from firms for pricing violations during the period of petroleum price controls (1973-1981) *See Modified Statement of Restitutionary Policy in Crude Oil Cases*, 51 Fed. Reg. 27899 (August 4, 1986). The last phase of this program is OHA's distribution of a portion of these funds to individuals, firms and government entities that purchased petroleum products during the period of price controls. OHA is currently in the process of making final distributions to some 31,000 eligible claimants. The date of the conclusion of this program will depend on the result of litigation currently before several federal courts. This program generated critical skill gaps in administrative support, program analysis, and entry level attorneys. The OHA used temporary hiring through local colleges and universities (Marymont, Bowie State, American University, etc) to help meet its need of employment in those areas. This method supported our vision of a workforce of diversity and minority hiring as well as help the Office maintain its staffing levels. However, the budget planning and request will continue to ambitiously make a causal connection to the human capital plan.

Strategic Goals: Finally, the OHA's strategic goal is to continue to enhance the DOE goal on human capital by attracting and retaining a highly skilled and diverse workforce to do the best job. The OHA's operating principles are to: (i) continue to adopt e-government initiatives to aggressively enhance its electronic filing system; and continue to have all Decisions and Orders (not restrained by court ordered confidentiality) be easily accessible by the public and by OHA stakeholders at the OHA's web site and through the OHA's Docket Room; (ii) continue to maintain a goal of all cases

to be adjudicated within regulatory deadlines; and (iii) continue to utilize the Department's leadership programs, e-training and other tools to maximize its succession planning. In addition, performance management plans will continue to address accountability from the management core as well as with all employees, and plans will continue to be linked to the OHA mission and goals.